

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-18 are pending in the application, of which claims 1 and 10 are independent. By the foregoing Amendment, claims 1 and 10 are sought to be amended. Claims 19-25 have been cancelled without prejudice or disclaimer. No new matter is embraced by this amendment and its entry is respectfully requested. Based on the above Amendment and the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding rejections.

Rejection under 35 U.S.C. § 112

The Examiner, on page 2 of the Office Action, has rejected claims 1-9 under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential steps. Specifically, the Examiner states that “[t]he omitted steps are: selecting digital media before actually retrieving.” Applicants have amended claim 1 to overcome this rejection. Applicants respectfully request that the Examiner consider amended claim 1 and withdraw this rejection.

Rejection under 35 U.S.C. § 102

The Examiner, on page 2 of the Office Action, has rejected claims 1-3, 6-12, and 15-18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,892,900 to Ginter. Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to independent claim 1, the Examiner states that Ginter teaches every element of the claim. Applicants respectfully disagree.

Contrary to the present invention, Ginter does not teach or suggest every element of Applicants' invention. For example, referring to independent claim 1, Ginter does not teach or suggest at least the following claimed element of: "responsive to a request for the license adhering to the access rules, receiving the license via a secure out of band transfer."

The Examiner states that Ginter teaches "[if] a request for the license adheres to the access rules, receiving the license via a secure out of band transfer" at col. 55, lines 53-56. Applicants respectfully disagree. At col. 55, lines 53-56, Ginter teaches a permissioning agent to distribute rules and controls for granting use or distribution permissions based on a consumer's credit worthiness. Thus, unlike the present invention in which responsive to a request for the license adhering to the access rules, receiving the license via a secure out of band transfer, Ginter teaches a permissioning agent for distributing rules and controls for granting use or permissions based on a consumer's credit worthiness. In fact, Ginter does not appear to teach a secure out of band transfer.

For at least these reasons, Applicants respectfully submit that Ginter does not include each and every element of Applicants' claimed invention recited in independent

claim 1. Independent claim 10 also recites similar elements to those of claim 1. Therefore, independent claims 1 and 10, and the claims that depend therefrom (claims 2-9, and 11-18, respectively), are patentable over Ginter. Reconsideration and withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 103

The Examiner, on page 8 of the Office Action, has rejected claims 3-5 and 12-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,892,900 to Ginter in view of U.S. Patent Application No. 20050066353 to Fransdonk. Applicants respectfully traverse this rejection. Claims 3-5 and 12-14 depend from independent claims 1 and 10, respectively, and are patentable over Ginter for at least the reasons stated above. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 3-5 and 12-14.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

Intel Corporation

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/Crystal D. Sayles, Reg. No. 44,318/
Crystal D. Sayles
Senior Attorney
Intel Corporation
(202) 588-1959

Intel Corporation
Customer Number 59796
c/o Intellevate, LLC
P.O. Box 52050
Minneapolis, MN 55402